IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY FOURTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 21524 of 2004

Between:

T. Veeranna Goud, S/o Bheemaiah Goud,
R/o H.No. 1-6-83/C, Subhash Nagar, Mahabubnagar.

..... PETITIONER

AND

1 The Assistant Divisional Engineer, Operation (U) Town,
APCPDCL, Mahabubnagar.
2 The Additional Assistant Engineer, Operation (II) Town,
APCPDCL, Mahabubnagar.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction, more particularly a Writ in the nature of Mandamus, declaring the notice in Lr.No.ADE/OP/URBAN/M.NAGAR/F.No.68:D.No.1505, dated 14-11-2004 of the 1st respondent, as being illegal, arbitrary and violative of Articles 14 and 21 of the Constitution of India and consequently set aside the same,

Counsel for the Petitioner : MR.M.A.ASHFAQ MOHIUDDIN

Counsel for the Respondents 1 and 2: MR. KANAKAMEDALA RAVINDRA KUMAR (SC for APCPDCL)

The Court, at the stage of admission, made the following :

ORDER:

Petitioner is running a Saw Mill and is provided with electric supply. He states that an accident took place in the premises of the Mill, on account of breaking of the Saw, on 27.10.2004, and when it hit the meter, the glass was broken. He claims to have intimated the same to the 2nd respondent. However, within three days, the 2nd respondent issued an order of provisional assessment alleging that the petitioner had resorted to acts of pilferage, which is assessed at Rs.2,94,294/-. The power supply was disconnected and the petitioner was informed that in case he wants continuance of the supply, pending steps in passing the order of final assessment, he shall have to pay a sum of Rs.1,47,147/-.

Learned counsel for the petitioner submits that there is absolutely no justification on the part of the respondents in issuing the order of provisional assessment, particularly when the factum of breakage of glass of the meter was intimated by the petitioner himself. He submits that the amount assessed though provisionally is highly exorbitant, it is not at all, has any bearing on the actual consumption.

Learned Standing Counsel for the respondents submits that what is issued to the petitioner is only an order of provisional assessment, and under the terms and conditions of supply, the petitioner has to deposit half of the provisionally assessed amount, if he wants the continuance of power supply.

The proceedings against the petitioner are only at the stage of provisional assessment. The terms and conditions of supply provide for submission of explanation by a consumer, and passing of a final order of assessment on consideration of such explanation. It is only when the order of final assessment is

passed, that the actual liability of a consumer can be said to have been fixed. It is true that the relevant provisions require the consumer to deposit half of the provisionally assessed amount, to ensure continuance of supply. However, having regard to the nature of activity and financial capacity of the petitioner, compliance with such a condition would certainly be result in hardship and deprivation of source of liability. Therefore, the writ petition is disposed of with the following directions:

a. The power supply to the Saw Mill of the petitioner shall be restored, as and when he deposits a sum of Rs.30,000/-; and within fifteen (15) days from the date of restoration of supply, he shall be under obligation to pay another sum of Rs.40,000/-.

b. In case, the petitioner commits default in payment of the second installment, it shall be open to the respondents to disconnect the power supply.

c. The respondents shall pass order of final assessment, duly taking into account the explanation that may be submitted by the petitioner; and

d. The petitioner shall not be required to pay any further amount, except the consumption charges, in the meanwhile.

There shall be no order as to costs.

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L.NARASIMHA REDDY, J

Date: 24th November, 2004

Note: Furnish copy in

two days.

(B/o.)

Ts

To

1 The Assistant Divisional Engineer, Operation (U) Town,
APCPDCL, Mahabubnagar.
2 The Additional Assistant Engineer, Operation (II) Town,
APCPDCL, Mahabubnagar.

3 2 CD copies.